

### **REMARKS**

Please reconsider the application in view of the above amendments and the following remarks. Applicants thank the Examiner for the courtesies extended during the Examiner Interview and for carefully considering this application.

#### **Examiner Interview**

An Examiner Interview was conducted on September 16, 2010. Applicants have reviewed the interview summary mailed September 23, 2010 and agree with its contents.

#### **Disposition of the Claims**

Claims 13, 14, 16-19 and 28-30 were pending in this application. Claims 29 and 30 are canceled by way of this reply without prejudice or disclaimer. Further, claims 31-33 are newly added by way of this reply. Accordingly, claims 13, 14, 16-19, 28, and 31-33 are currently pending in this application. Of the currently pending claims, claims 13-33 are independent. The remaining claims depend, directly or indirectly, from claims 13.

#### **Claim Amendments**

Claims 13, 19, and 28 are amended by way of this reply to clarify aspects of the invention. No new subject matter is added by way of these amendments as support may be found, for example, on p. 4, ll. 1-22 and in Figures 2 and 3 of the Application as filed.

**Objection to the Specification**

The Specification stands objected to for failing to provide antecedent basis for claim 13. Claim 13, as amended, does not include the subject matter that the Examiner asserts is not in the Specification. Accordingly, this objection is moot. Withdrawal of this objection is respectfully requested.

**Rejections under 35 U.S.C. § 112**

Claims 13, 14, 16-19, and 28-30 stand rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement. Claims 29 and 30 are canceled by way of this reply. Thus, the rejection is moot with regards to claims 29 and 30. Additionally, claim 13, as amended, does not include the subject matter that the Examiner asserts is not described in the Specification. *See* Action, p. 3-7. Further, Applicants respectfully assert that the claims, as amended, satisfy the requirements of 35 U.S.C. § 112. Accordingly, withdrawal of this rejection is respectfully requested.

**Rejections under 35 U.S.C. § 112**

Claims 13, 14, 16-19, and 28-30 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as the invention. Claims 29 and 30 are canceled by way of this reply. Thus, the rejection is moot with regards to claims 29 and 30. Additionally, claim 13, as amended, does not include the subject matter that the Examiner asserts is indefinite. *See* Action, p.

7-10. Further, Applicants respectfully assert that the claims, as amended, satisfy the requirements of 35 U.S.C. § 112. Accordingly, withdrawal of this rejection is respectfully requested.

**Rejection under 35 U.S.C. § 103(a)**

Claims 13, 14, 16-19, and 28-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. Pub. No. 2005/0097015 (“Wilkes”) in view of U.S. Patent Pub. No. 2004/0176134 (“Goldthwaite”). As discussed above, claims 29 and 30 are canceled by way of this reply. Accordingly, this rejection is moot with regards to claims 29 and 30. To the extent that this rejection applies to the remaining amended claims, this rejection is respectfully traversed.

As an initial matter, Applicants respectfully note that Goldthwaite was filed on March 14, 2004 and has a priority date of March 19, 2003. The March 19, 2003, priority date is based on U.S. Provisional Application Serial No. 60/455,761. The present application has a priority date of January 16, 2004 (3 months before the filing date of Goldthwaite). A review of the aforementioned provisional application and Goldthwaite revealed that the aforementioned references do not include the same subject matter. Based on this, if the Examiner persists in relying on Goldthwaite, Applicants respectfully request that the Examiner cite the particular portions of provisional application No. 60/455,761 that provide support for aforementioned rejection. In the event that the Examiner is unable to locate such support, Applicants assert that Goldthwaite is not valid prior art and, as such, may not be used as the basis for the aforementioned rejection.

The above notwithstanding, in an effort to further prosecution, Applicants present the following arguments.

Claim 13 is directed to a mobile device that is a part of a merchant transaction terminal. In one or more embodiments of the invention, the mobile device includes a keypad and a scheduler card. The human interface module includes a second keypad for receiving an amount and a card reader to read a payment card to obtain payment card data from the payment card. The scheduler card includes a scheduler to process the transaction. The processing of the transaction by the scheduler includes receiving a communication from the human interface module and communicating the communication to a virtual terminal server. Communications between the scheduler and human interface module are secured through ciphered data exchange. *See, e.g.,* p. 4, ll. 1-22 of the Specification.

MPEP § 2143 states that “[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.” Further, the Supreme Court in *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1739, 75 U.S.L.W. 4289 (2007) noted that the analysis supporting a rejection under 35 U.S.C. § 103 should be made explicit. *See* MPEP § 2143. The analysis presented by the Examiner to support the rejection of the claims under 35 U.S.C. § 103 in the Action indicates that the Examiner found no differences between the cited prior art and the claims besides a lack of the actual combination of the elements in a single prior art reference, *i.e.*, that the Examiner is relying solely on the teachings of the prior art. *See, e.g.*, MPEP § 2143(A). The cited art fails to disclose or render obvious a scheduler on a scheduler card that communicates with a human interface module having a second keypad, where communications between the scheduler card and the human interface module are secured through ciphered data exchange.

Turning to Goldthwaite, the consumer only has a mobile device with an attachment device having a virtual SIM card. *See, e.g.*, Fig. 3. In Goldthwaite, the consumer uses the keypad on the mobile device. *Id.* Goldthwaite is silent with regards to a scheduler on a scheduler card that communicates with a human interface module having a second keypad or the scheduler communicating with the human interface module through ciphered data exchange as required by the amended claims. Therefore, Goldthwaite cannot disclose or render obvious the aforementioned limitation.

Moreover, Wilkes fails to disclose or render obvious that which Goldthwaite lacks. Specifically, as clearly shown in Wilkes, the user uses a keypad on the mobile device. *See, e.g.*, Wilkes, paragraph [0053] and Fig. 7. As shown by Wilkes disclosing that the user uses a keypad on the mobile device to submit payment data, Wilkes is unconcerned with securing communication from the mobile device. In fact, Wilkes is silent with regards to a scheduler on a scheduler card that communicates with a human interface module having a second keypad, or the scheduler communicating with the human interface module through ciphered data exchange as required by the amended claims.

In view of the above, Wilkes and Goldthwaite, whether considered together or separately, fail to disclose or render obvious all of the limitations of claim 13. Accordingly, claim 13 is patentable over Wilkes and Goldthwaite. Dependent claims 14, 16-19, and 28, which directly or indirectly depend from claim 13, are patentable over Wilkes and Goldthwaite for at least the same reasons. Withdrawal of this rejection is respectfully requested.

### **New Claims**

Claims 31-33 are newly added by way of this reply. No new subject matter is added by way of new claims 31-33 as support may be found on p. 4, ll. 1-22 and Fig. 2 of the Application as filed. Applicants respectfully assert that all of the elements of claims 31-33 are not shown or disclosed by the cited art. Accordingly, favorable consideration of claims 31-33 is respectfully requested.

### **Conclusion**

Applicants believe this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 09669/092001).

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